

REMARKS

Claims 1-6, 8, 10, 11 and 14 are pending and rejected. Applicants traverse all of the rejections.

Claims 1-6, 8, 10, 11 and 14 are rejected under 35 USC § 112, first paragraph for lack of enablement. Applicants traverse these rejections. Specifically, the Office Action alleges that the specification does not provide enablement for actual intranasal administration to a human subject to properly assess the claimed invention. First, Applicants note that the presently claimed invention does not require intranasal administration. It appears that the Action is adding language to the present claims which is not allowed. "A patent specification must be enabling as to the invention as set forth in the claims." *Gould v. Mossinghoff*, 229 USPQ 1 (DC 1985). The Action admits that the specification is enabling for the method as in claim 1, see Office Action, page 2. As such, Applicants respectfully submit that the withdrawal of such rejections is appropriate.

Claims 1-6, 8, 10, 11 and 14 are rejected under 35 USC §103 as unpatentable over TA Instruments Manual and Penkethman in view of Ward. Applicants traverse all of these rejections.

The Action alleges that the TA manual teaches a method of attaching geometry in order to properly adjust for any sample. Applicants are not sure of the relevance of TA manual since it teaches using a rheometer and the Applicants do not use such a device. In fact, based on the TA manual, it is surprising that Applicants can determine thixotropic properties absent a rheometer.

The Action alleges that "Penkethman, therefore, depicts the basic steps of a method of determining thixotropic properties of formulations." However, Penkethman does not teach such steps as noted in the Action's next sentence: "Penkethman does not teach specifically Rheology or thixotropy." (Office Action, page 7). These are conflicting statements. Applicants submit withdrawal of Penkethman is appropriate.

The Action suggests that Ward teaches b-d of Applicant's claim 1; however, Ward does not teach such steps. There is no disclosure or teaching in Ward that it would be useful for a thixotropic formulation. There is no teaching or suggestion that Ward's method could be used in the instant invention. Applicants submit that withdrawal of the rejections based on Ward is appropriate.

With respect to the 103 rejection, the Office Action addresses only claim 1 and does not provide any basis for rejecting claims 2-6, 8, 10, 11 and 14. Accordingly, Applicants submit that the Office Action has not met its burden of proof in rejecting these claims and submit that withdrawal of rejections is warranted.

The Action states that one central issue is determining the magnitude of thixotropy via a rheometer, however, Applicants submit that such issues are not claimed and are not relevant to reject the present claims.

Applicants submit that subsection a) of claim 1 is not taught by the individual references nor the combined teachings. Specifically, the Action does not provide any teaching of 'placing an amount of said thixotropic formulation on a transparent object'. Each and every element must be taught or disclosed by the cited references. Applicants submit that the present Office Action is deficient in this respect and request withdrawal of such rejections.

Based on the foregoing remarks, Applicants respectfully submit that the application is in condition for allowance and request favorable consideration.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Barry Jacobsen', is written over a horizontal line.

Barry H. Jacobsen  
Reg. No. 43,689  
908-298-5056

SCHERING-PLOUGH CORPORATION  
Patent Department, K-6-1, 1990  
2000 Galloping Hill Road  
Kenilworth, New Jersey 07033-0530  
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